

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

Mark Klasen,

Complainant,

vs.

NOTICE OF AND ORDER FOR
PREHEARING CONFERENCE AND
EVIDENTIARY HEARING

Mark Dick and Robert Workman,

Respondents.

TO: Mark Klasen, [address redacted], Hinckley, MN 55037; Mark Dick, [address redacted], Hinckley, MN 55037; and Robert Workman, [address redacted], Hinckley, MN 55037.

On August 18, 2008, Mark Klasen filed a Complaint with the Office of Administrative Hearings alleging Respondent Mark Dick violated Minn. Stat. §§ 211B.04 (disclaimer), 211B.06 (false campaign material) and 211B.11 (election day prohibitions). The Complaint also alleged that Robert Workman and Maynard Workman violated Minn. Stat. § 211B.11 (election day prohibitions). Administrative Law Judge Richard C. Luis reviewed the Complaint and, by Order dated August 19, 2008, determined the Complaint sets forth prima facie violations of § 211B.11 with respect to Respondents Mark Dick and Robert Workman. The remaining allegations against Mark Dick were dismissed, and the Complaint was dismissed in its entirety as to Respondent Maynard Workman.

THEREFORE, NOTICE IS HEREBY GIVEN that this matter has been assigned to a panel of three Administrative Law Judges for an evidentiary hearing. The assigned Administrative Law Judges are: Richard C. Luis (presiding judge), Eric L. Lipman, and Patricia J. Milun. The address of the Administrative Law Judges is 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620. The Administrative Law Judges may be reached at telephone number 651-361-7900 and the Office's fax number is 651-361-7936.

IT IS FURTHER ORDERED AND NOTICE IS HEREBY GIVEN that this matter is scheduled for a prehearing conference to be held by telephone on **Friday, August 29, 2008, at 10:30 a.m.**, and an evidentiary hearing to be held at the Office of Administrative Hearings on **Friday, September 19, 2008, at 9:30 a.m.**

The September 19th prehearing conference will be conducted by call-in telephone conference. You must call: **1-888-323-9794** at that time. Follow the directions and enter the code "**19862**" when asked for the meeting number. At the prehearing conference, preliminary matters will be addressed such as

identifying the issues to be resolved, the number of potential witnesses, and determining whether the matter may be disposed of without an evidentiary hearing.

The evidentiary hearing has been ordered pursuant to the authority granted to the Chief Administrative Law Judge by Minn. Stat. § 211B.35, subd. 1. The hearing will be conducted pursuant to Minn. Stat. §§ 211B.35 and 211B.36. Information about the evidentiary hearing and copies of governing state statutes and rules may be obtained online at www.oah.state.mn.us and www.revisor.leg.state.mn.us. The Office of Administrative Hearings conducts proceedings in accordance with the Minnesota Rules of Professional Conduct and the Professionalism Aspirations adopted by the Minnesota Supreme Court.

HEARING PROCEDURES

At the evidentiary hearing, all parties have the right to be represented by legal counsel, by themselves, or by a person of their choice if not otherwise prohibited as the unauthorized practice of law. In addition, the parties have the right to submit evidence, affidavits, documentation and argument for consideration by the Administrative Law Judges. The panel may consider any evidence and argument submitted until a hearing record is closed, or may continue a hearing to enable the parties to submit additional testimony. All hearings must be open to the public.

WITHDRAWAL OF COMPLAINT

At any time before an evidentiary hearing begins, a complainant may withdraw a complaint. After the evidentiary hearing begins, however, a complaint filed may only be withdrawn with the permission of the panel.

COSTS

If the panel determines the complaint is frivolous, it may order the complainant to pay the respondent's reasonable attorney fees and to pay the costs of the office in the proceeding in which the complaint was dismissed.

BURDEN OF PROOF

The burden of proving the allegations in the complaint is on the complainant. The standard of proof of a violation of section 211B.06, relating to false statements in paid political advertising or campaign material, is clear and convincing evidence. The standard of proof of any other violation of chapter 211A or 211B is a preponderance of the evidence.

DISPOSITION OF COMPLAINT

At the conclusion of the evidentiary hearing, the panel must determine whether the violation alleged in the complaint occurred and must make at least one of the following dispositions:

- (1) The panel may dismiss the complaint.
- (2) The panel may issue a reprimand.
- (3) The panel may find that a statement made in a paid advertisement or campaign material violated section 211B.06.
- (4) The panel may impose a civil penalty of up to \$5,000 for any violation of chapter 211A or 211B.
- (5) The panel may refer the complaint to the appropriate county attorney.

The panel must dispose of the complaint within three days after the hearing record closes, if an expedited probable cause hearing was required by section 211B.33; or within 14 days after the hearing record closes, if an expedited probable cause hearing was not required by section 211B.33.

JUDICIAL REVIEW

A party aggrieved by a final decision on a complaint filed under section 211B.32 is entitled to judicial review of the decision as provided in Minn. Stat. §§ 14.63 to 14.69.

REASONABLE ACCOMMODATION

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one. Examples of reasonable accommodations include wheelchair accessibility, an interpreter, or Braille or large-print materials. If any party requires an interpreter, the Office of Administrative Hearings must be promptly notified. To arrange an accommodation, contact the Office of Administrative Hearings at 600 North Robert Street, P.O. Box 64620, St. Paul, Minnesota 55164-0620, or call 651-361-7900 (voice) or 651-361-7878 (TTY).

Dated this 21 day of August 2008.

/s/ Raymond R. Krause
RAYMOND R. KRAUSE
Chief Administrative Law Judge

cc: Judge Richard Luis
Judge Eric Lipman
Judge Patricia Milun
Docket Clerk
